

MINUTE ITEM

26. FORM OF OIL-AND-GAS LEASE, SANTA BARBARA COUNTY - W.O. 3537.

It was reported to the Commission that no modified language is under consideration which might have been discussed in advance with any industry committee since the suggested modifications are primarily matters of draftsmanship. The modifications proposed (see page 2 of Calendar Item 26 attached) were then reviewed, item by item.

State Senator Richard Richards, appearing in the capacity of an attorney-at-law, raised a question as to whether the change proposed in Exhibit "C" to the lease form was to preclude conditional bidding. The Executive Officer stated that this was the intent, and called upon Deputy Attorney General Jay Shavelson for information as to legal sufficiency. Mr. Shavelson reported that it had not been determined as a matter of law if it was necessary to preclude conditional bidding. However, if it were allowed, without precise terms governing conditional bidding, the door might be opened for confusion and possible litigation, and the award of bids might be delayed, or it might even be necessary for the Commission to reject all bids on a particular offer.

Senator Richards then presented arguments in favor of conditional bidding, stating that it should be considered not only in fairness to small operating groups who otherwise might not be able to bid on all parcels being offered, but also in the primary interests of the people of the State of California in regard to getting as much money as possible for the State from tideland bids. He pointed out that the need for conditional bidding was the result of adoption by the State of the practice of putting up more than one parcel at a time for bidding, stating that if only one parcel were offered there would be no problem. He strongly urged the Commission not to make the changes contemplated on page 25, lines 17 through 19, of the proposed lease form.

Commissioners Carr and Anderson stated that they favored offering lease parcels one at a time.

In response to a question by Commissioner Carr as to whether it was within the purview of the Commission to determine that it could put the parcels up one at a time, the Executive Officer referred to the Attorney General's opinion of 1958, which stated that the acceptability or rejection of bids was a policy matter, for determination by the Commission. There is no statutory requirement, and it would be within the purview of the Commission to determine to offer any lands one parcel at a time, thereby eliminating any problems for prospective bidders in the sense that they even had to think about conditioning the bid, and also eliminating any potential problems for the staff in trying to evaluate any series of bids and give the report on which bid was in fact high.

Deputy Attorney General Jay Shavelson indicated that he wanted to clarify what he had said earlier and to remark on the general nature of the 1958 letter advice from the office of the Attorney General, saying that it was an opinion as to what that office thinks is the better legal view, written after the fact that the conditional bids had been received. At that time the Commission was told that the question was not free from legal doubt, and

that he did not think the Commission should deliberately go forward and create a situation where there is any legal doubt, and pointed out that if conditional bids had been received from six or eight bidders in 1958 instead of only one, the problem would have been a lot more difficult than it actually was to resolve. If conditional bidding is to be allowed, it should be allowed only under precisely determined and defined criteria.

Commissioner Carr then made a motion that the parcels be offered one at a time, with as much dispatch as possible.

The Chairman then asked the Executive Officer if it would be possible to approve the lease form except for the two-fold related question of offering parcels one at a time, and the matter of conditional bidding, without slowing up schedules. The Executive Officer replied that any deferment of any portion or any segment of what had been proposed would of necessity retard the final schedule.

The Chairman requested that the office of the Attorney General give the Commission, as far in advance as possible, a recommendation on conditional bidding if conditional bidding was what the Lands Commission decided would be satisfactory, and also asked that the staff and industry explore and give their opinions on step-by-step opening of parcels versus opening several simultaneously, together with recommendations as to the time that would be necessary between parcels if the step-by-step method were used.

UPON MOTION MADE BY COMMISSIONER CARR AND SECONDED BY COMMISSIONER ANDERSON, A RESOLUTION WAS ADOPTED UNANIMOUSLY, APPROVING AND ADOPTING THE ENTIRE FORM OF OIL AND GAS LEASE SUBMITTED AS EXHIBIT "I" WITH THE EXCEPTION OF THE PARAGRAPH IN EXHIBIT "C" ON CONDITIONAL BIDDING, COPY OF WHICH IS ON FILE IN THE RECORDS OF THE STATE LANDS COMMISSION AND IS BY REFERENCE HEREBY MADE A PART OF THESE MINUTES, AS THE BASIC BID-LEASE FORM FOR THE ISSUANCE OF OIL AND GAS LEASES ON TIDE AND SUBMERGED LANDS IN THE AREA WEST OF GAVIOTA AND EXTENDING TO POINT CONCEPTION IN SANTA BARBARA COUNTY, PURSUANT TO DIVISION 6, PUBLIC RESOURCES CODE.

Attachment

Supplemental Calendar Item 26 (2 pages)

*Rescinded by
Minute Item 18
Pg. 6473, meeting
of November 15, 1960.
E. Denny*

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Attachment

Supplemental Calendar Item 26 (2 pages)

SUPPLEMENTAL CALENDAR ITEM

26.

FORM OF OIL AND GAS LEASE, SANTA BARBARA COUNTY - W.O. 3537.

On March 24, 1960 (Minute Item 34, page 5827), the Commission was informed that Shell Oil Company had submitted a nomination of nine parcels of tide and submerged lands for oil and gas lease development in offshore Santa Barbara County.

On April 28, 1960 (Minute Item 27, page 5908), the Commission scheduled two days of public review of oil and gas leasing policies, to be held in Los Angeles on May 31 and June 1, 1960, and authorized the Executive Officer to proceed with the publication of the notice authorized by Section 6873.2 of the Public Resources Code that the Commission intends to consider offering leases for the extraction of oil and gas from the area of tide and submerged lands not included in existing State oil and gas leases lying between the westernmost State oil and gas lease in the Elwood Field and Point Conception, Santa Barbara County, and extending seaward three nautical miles.

On June 23, 1960 (Minute Item 25, page 6108), the Executive Officer reported that the final date for request by the County of Santa Barbara for a public hearing on the subject lease consideration was June 18, 1960, and that no request had been received from the County.

On July 28, 1960 (Minute Item 28, pages 6177-78), the Commission authorized the Executive Officer to conduct a public review in Santa Barbara of proposed oil and gas lease terms and conditions. This review was held on August 25, 1960, with all Commissioners present.

On September 29, 1960, a draft of a proposed revised form of oil and gas lease was presented for Commission consideration for use in connection with current proposed lease offers. The proposed modified form of oil and gas lease has been reviewed with industry representatives and all parties who have expressed an interest, and has been reviewed and revised by the office of the Attorney General as to form and as to compliance with Division 6 of the Public Resources Code.

A conference on October 21, 1960, with members of the Board of Supervisors of Santa Barbara County and the County legal and planning staffs has indicated the need for an integrated study of the ocean floor and adjoining uplands in that portion of the total area under consideration for lease offer between Gaviota and Elwood to determine economic and aesthetic bases for limitation of the locations of offshore structures.

The substantive lease form modifications suggested on September 29, 1960, related to royalty rate adjustments during secondary recovery operations, the bases for accounting for the total effective number of separate producing wells in royalty computations, and the well spacing requirements for wells of various depths. The office of the Attorney General has reported that there would be doubt as to the legality of inclusion of the first two proposed modifications in the lease form. In summary, the

SUPPLEMENTAL CALENDAR ITEM 26. (CONTD.)

current final draft of lease form contains only the following modifications from the requirements adopted for the last Commission lease offer in 1958:

Page 2, lines 28 through 30:

"The term 'commence operations', as used in this lease and in Exhibit 'A' attached hereto and by reference made a part hereof, is hereby defined to be the actual penetration of the ground with a drilling bit."

Page 3, line 13:

"shall not be less than the highest price ~~of~~ ~~per~~ ~~acre~~ in the nearest field"

Page 8, lines 9 through 12:

"10. The Lessee shall commence operations for the drilling of wells into the leased lands in accordance with Exhibit 'A' ~~attached hereto~~ hereof, ~~and by reference made a part hereof~~ and shall thereafter diligently prosecute such operations."

Page 19, line 12:

"~~8,000~~ 6,000 feet below mean sea level."

Page 19, line 17:

"~~8,000~~ 6,000 feet below mean sea level."

Page 25, lines 17 through 19:

"It is understood that no variation shall be made in this prescribed form of offer and that the insertion of any additional condition, qualification or provision hereon will invalidate the bid."

The final draft is attached as Exhibit I.

Section 6834, Public Resources Code, provides that whenever the Commission determines that lands shall be leased for oil and gas a lease form shall be prepared by the Commission. Therefore,

IT IS RECOMMENDED THAT THE COMMISSION APPROVE AND ADOPT THE FORM OF OIL AND GAS LEASE, ATTACHED HERETO AS EXHIBIT I, AS THE BASIC BID-LEASE FORM FOR THE ISSUANCE OF OIL AND GAS LEASES ON TIDE AND SUBMERGED LANDS IN THE AREA WEST OF GAVIOTA AND EXTENDING TO POINT CONCEPTION IN SANTA BARBARA COUNTY, PURSUANT TO DIVISION 6, PUBLIC RESOURCES CODE.

Attachment
Exhibit I